

## UTILITIES DIVISION[199]

### Notice of Intended Action

#### **Proposing rule making related to telecommunications service and providing an opportunity for public comment**

The Utilities Board hereby proposes to rescind Chapter 22, “Service Supplied by Telephone Utilities,” and to adopt a new Chapter 22, “Regulation of Telecommunications Service,” Iowa Administrative Code.

#### *Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code sections 476.2 and 476.103.

#### *State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code chapter 476.

#### *Purpose and Summary*

New statutory provisions affecting the Utilities Board’s regulation of telecommunications service in Iowa became effective July 1, 2018. The new provisions exempt providers of telecommunications service from certain regulatory requirements in Iowa Code chapter 476 and establish requirements for those providers to register with the Board. In addition, the Board has over the past year been meeting with the telecommunications industry to discuss what rules are needed in the current deregulated regulatory environment. The Board is proposing to rescind its current rules in Chapter 22 and adopt a new Chapter 22 with updated provisions. The proposed chapter retains those provisions that the Board considers applicable to the current regulation of telecommunications service.

The Board issued an order commencing rule making on April 19, 2019. The order is available on the Board’s electronic filing system, [efs.iowa.gov](https://efs.iowa.gov), under Docket No. RMU-2018-0022.

#### *Fiscal Impact*

The proposed rules will not have a financial impact on city utilities since the rules reflect the current competitive environment for telecommunications providers, including municipal telecommunications providers.

#### *Jobs Impact*

After analysis and review of this rule making, no impact on jobs has been found.

#### *Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to rule 199—1.3(17A,474,476).

#### *Public Comment*

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Board no later than 4:30 p.m. on May 28, 2019. Comments should be directed to:

Electronic Filing System (EFS) at [efs.iowa.gov](http://efs.iowa.gov)  
Iowa Utilities Board  
Phone: 515.725.7337  
Email: [efshelpdesk@iub.iowa.gov](mailto:efshelpdesk@iub.iowa.gov)

### *Public Hearing*

An oral presentation at which persons may present their views orally or in writing will be held as follows:

June 13, 2019  
1 to 3 p.m.

Board Hearing Room  
1375 East Court Avenue  
Des Moines, Iowa

Persons who wish to make oral comments at the oral presentation may be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making.

Any persons who intend to attend the oral presentation and have special requirements, such as those related to hearing or mobility impairments, should contact the Board and advise of specific needs.

### *Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making action is proposed:

Rescind 199—Chapter 22 and adopt the following **new** chapter in lieu thereof:

### CHAPTER 22 REGULATION OF TELECOMMUNICATIONS SERVICE

#### **199—22.1(476) General information.**

**22.1(1) Application and purpose of rules.** These rules shall apply to any telecommunications service provider operating within the state of Iowa subject to Iowa Code chapter 476, including local exchange utilities, interexchange utilities, or alternative operator services companies. These rules are intended to govern the exercise of the board's powers and duties relating to the provision of telecommunications service in the state of Iowa, and to govern the form, contents, and filing of registrations, tariffs, and other documents necessary to carry out the board's powers and duties. A request to waive the application of any rule on a permanent or temporary basis may be made in accordance with rule 199—1.3(17A,474,476).

**22.1(2) Definitions.** For the administration and interpretation of these rules, the following words and terms shall have the meanings indicated below:

"*Alternative operator services company*" or "*AOS company*" means a nongovernmental company which receives more than half of its Iowa intrastate telecommunications services revenues from calls placed by end-user customers from telephones other than ordinary residence or business telephones. This definition is further limited to include only companies which provide operator assistance, either through live or automated intervention, on calls placed from other than ordinary residence or business telephones, and does not include services provided under contract to rate-regulated local exchange utilities.

"*Board*" means the Iowa utilities board.

"*Calls*" means telephone messages attempted by customers or users.

"*Competitive local exchange carrier*" or "*CLEC*" means a utility, other than an incumbent local exchange carrier, that provides local exchange service.

*“Customer”* means any person as defined in Iowa Code section 4.1(20) responsible by law for payment for communications service from the telephone utility.

*“Exchange”* means a unit established by a telephone utility for the administration of communications services.

*“Exchange service”* means communications service furnished by means of exchange plant and facilities.

*“Exchange service area”* or *“exchange area”* means the general area in which the telephone utility holds itself out to furnish exchange telephone service.

*“High-volume access service”* or *“HVAS”* is any service that results in an increase in total billings for intrastate exchange access for a local exchange utility in excess of 100 percent in less than six months. By way of illustration and not limitation, HVAS typically results in significant increases in interexchange call volumes and can include chat lines, conference bridges, call center operations, help desk provisioning, or similar operations. These services may be advertised to consumers as being free or for the cost of a long distance call. The call service operators often provide marketing activities for HVAS in exchange for direct payments, revenue sharing, concessions, or commissions from local service providers.

*“Incumbent local exchange carrier”* or *“ILEC”* means a utility, or successor to such utility, that was the historical provider of local exchange service pursuant to an authorized certificate of public convenience and necessity within a specific geographic area described in maps approved by the board as of September 30, 1992.

*“Information service”* means the offering of a capability for generating, acquiring, storing, transforming, processing, retrieving, utilizing, or making available information via telecommunications, and includes electronic publishing, but does not include any use of any such capability for the management, control, or operation of a telecommunications system or the management of a telecommunications service. The board does not have jurisdiction over information service.

*“Interexchange service”* is the provision of intrastate telecommunications services and facilities between local exchanges.

*“Interexchange utility”* means a utility, a resale carrier or other entity that provides intrastate telecommunications services and facilities between exchanges within Iowa, without regard to how such traffic is carried. A local exchange utility that provides exchange service may also be considered an interexchange utility.

*“InterLATA toll service”* means toll service that originates and terminates between local access transport areas.

*“Internet protocol-enabled service”* means any service, capability, functionality, or application that uses Internet protocol or any successor protocol and enables an end user to send or receive voice, data, or video communications in Internet protocol format or a successor format.

*“IntraLATA toll service”* means toll service that originates and terminates within the same local access transport area.

*“Intrastate access services”* are services of telephone utilities which provide the capability to deliver intrastate telecommunications services which originate from end users to interexchange utilities and the capability to deliver intrastate telecommunications services from interexchange utilities to end users.

*“Local exchange service”* means telephone service furnished between customers or users located within an exchange area.

*“Local exchange utility”* means a registered telephone utility that provides local exchange service. The utility may also provide other services and facilities such as access services.

*“Message”* means a completed telephone call by a customer or user.

*“Rates”* means amounts billed to customers for alternative operator services or intrastate access services.

*“Retail services”* means those communications services furnished by a telephone utility directly to end-user customers. For an alternative operator services company, the terms and conditions of its retail services are addressed in an approved intrastate tariff.

*“Registration”* means compliance by all telecommunications service providers with Iowa Code chapter 476. Registration shall be in the form as provided by the board in 199—Chapter 23.

“*Tariff*” means the entire body of rates, classifications, rules, procedures, policies, etc., adopted and filed with the board by a local exchange utility for wholesale services, not governed by an interconnection agreement or commercial agreement, or by an alternative operator services company for retail services, in fulfilling its role of furnishing communications services.

“*Telecommunications service provider*” means a provider of local exchange or long distance telephone services, or both, other than commercial mobile radio service.

“*Telephone utility*” or “*utility*” means any person, partnership, business association, or corporation, domestic or foreign, owning or operating any facilities for furnishing communications service to the public for compensation, but does not include a provider of Internet protocol-enabled service or voice over Internet protocol service with regard to the provider’s provision of such service to retail customers. The board shall not directly or indirectly regulate the entry, rates, terms, or conditions for Internet protocol-enabled service or voice over Internet protocol service, but voice over Internet protocol service may be subject to fees subsequently established by state or federal statute, rule, or requirement, such as 911 or dual party relay service.

“*Toll message*” means a message made between different exchange areas for which a charge is made, excluding message rate service charges.

“*Traffic*” means telephone call volume, based on number and duration of calls.

“*Transitional intrastate access service*” means annual reductions affecting terminating end office access service that was subject to intrastate access rates as of December 31, 2011; terminating tandem-switched transport access service subject to intrastate access rates as of December 31, 2011; and originating and terminating dedicated transport access service subject to intrastate access rates as of December 31, 2011.

“*Voice over Internet protocol service*” means an Internet protocol-enabled service that facilitates real-time, two-way voice communication that originates from, or terminates at, a user’s location and permits the user to receive a call that originates from the public switched telephone network and to terminate a call on the public switched telephone network.

“*Wholesale services*” means those communications services furnished by one telephone utility to another provider of communications services. The terms and conditions of wholesale services may be addressed in a telephone utility’s approved intrastate access tariff, local interconnection tariff, interconnection agreement reached under Sections 251 and 252 of the federal Telecommunications Act, or in a commercial agreement reached between the providers. Nothing in this chapter shall affect, limit, modify, or expand an entity’s obligations under Sections 251 and 252 of the federal Telecommunications Act; any board authority over wholesale telecommunications rates, services, agreements, interconnection, providers, or tariffs; or any board authority addressing or affecting the resolution of disputes regarding intercarrier compensation.

## **199—22.2(476) Tariffs.**

**22.2(1)** *Tariffs to be filed with the board.* Telecommunications service providers required to file tariffs with the board, including alternative operator services companies and providers of wholesale services, shall maintain their tariffs in a current status. A copy of the tariffs shall be available upon request. The tariffs shall be classified, designated, arranged, and submitted so as to conform to the requirements of this chapter or board order. Provisions in the tariffs shall be definite and stated so as to minimize ambiguity or the possibility of misinterpretation. The form, identification, and content of tariffs shall be in accordance with these rules unless otherwise provided.

**22.2(2)** *Form and identification.* All tariffs shall conform to the following requirements:

*a.* The tariff shall be printed so as to result in a clear and permanent record. The sheets of the tariff should be ruled or spaced to set off a border on the left side. In the case of utilities subject to regulation by any federal agency, the format of the sheets of the tariff filed with the board may be the same format as is required by the federal agency, provided that the requirements of the board as to title page; identity of superseding, replacing or revising sheets; identity of amending sheets; identity of the filing utility, issuing official, date of issue and effective date; and the words “Filed with the board” shall be applied to modify the federal agency format for the purposes of filing with this board.

b. The title page of every tariff and supplement shall show the following in the order set forth below:

(1) The first page shall be the title page, which shall show:

Name of Public Utility

Telephone Tariff

Filed with

Iowa Utilities Board

\_\_\_\_\_ (date)

(2) When a tariff is to be superseded or replaced in its entirety, the replacing tariff shall show on its title page that it is a revision of a tariff on file.

(3) When a revision or amendment is made to a filed tariff, the revision or amendment shall show on each sheet the designation of the original tariff or the number of the immediately preceding revision or amendment which it replaces.

(4) When a new part of a tariff eliminates an existing part of a tariff, it shall so state and clearly identify the part eliminated.

c. Any tariff modifications as described above shall be marked in the right-hand margin of the replacing tariff sheet with symbols as here described to indicate the place, nature and extent of the change in text. The marked version shall show all additions and deletions, with all new language marked by underlined text and all deleted language indicated by strike-through. The following symbols are to be used in identifying changes to tariffs.

(1) The symbol C shall indicate a change in regulation.

(2) The symbol D shall indicate a discontinued rate or regulation.

(3) The symbol I shall indicate an increased rate.

(4) The symbol N shall indicate a new rate or regulation.

(5) The symbol R shall indicate a reduced rate.

(6) The symbol T shall indicate a change in the text that does not include a change in rate or regulation.

d. All sheets except the title page shall have, in addition to the information required above, the following further information:

(1) The name of the public utility, which shall be set forth above the words “Telecommunications Provider Tariff” under which shall be set forth the words “Filed with board.” If the utility is not a corporation and a trade name is used, the name of the individual or partners must precede the trade name.

(2) The issue date and the name of the issuing official.

(3) The effective date.

**199—22.3(476) Customer complaints.** Complaints from customers about telecommunications service shall be processed pursuant to the board’s rules in 199—Chapter 6. Unless a customer agrees to an alternative form of notice, local exchange utilities shall notify customers by bill insert or notice on the bill form of the address and telephone number where a utility representative can be reached. The bill insert or notice shall also include a statement: “If (utility name) does not resolve your complaint, you may request assistance from the Iowa Utilities Board by writing to the Iowa Utilities Board, 1375 E. Court Avenue, Des Moines, Iowa 50319; by calling 515-725-7321 or toll-free 877-565-4450; or by email to [customer@iub.iowa.gov](mailto:customer@iub.iowa.gov).” The bill insert or notice on the bill shall be provided no less than annually.

**199—22.4(476) Intrastate access charge application, tariff procedures, and rates.**

**22.4(1)** *Application of intrastate access charges.*

*a.* Intrastate access charges shall apply to all intrastate access services rendered to interexchange utilities. Intrastate access charges shall not apply to extended area service (EAS) traffic. In the case of resale of services of interexchange utilities, interstate access charges shall apply as follows:

- (1) The interexchange utilities shall be billed as if no resale were involved.
- (2) The resale carrier shall be billed only for access services not already billed to the underlying interexchange utility.
- (3) Specific billing treatment and administration shall be provided pursuant to tariff.

*b.* Except as provided in subparagraph 22.4(1) “*b*”(3), no person shall make any communication of the type and nature transmitted by telephone utilities, between exchanges located within Iowa, over any system or facilities, which are or can be connected by any means to the intrastate telephone network, and uses exchange utility facilities, unless the person shall pay to the exchange utility or utilities which provide service to the exchange where the communication is originated and the exchange where it is terminated, in lieu of the carrier common line charge, a charge in the amount of \$25 per month per circuit that is capable of interconnection. However, if the person provides actual access minutes to the exchange utility, the charge shall be the charge per access minute or fraction thereof, not to exceed \$25 per line per month. The charge shall apply in all exchanges. However, if the person attests in writing that the person’s facility cannot interconnect and is not interconnected with the exchange in question, the person will not be subject to the charge in that exchange.

(1) In the event that a communication is made without compliance with this rule, the telephone utility or utilities serving the person shall terminate telephone service after notice to the person. The utility shall not reinstate service until the board orders the utility to restore service. The board shall order service to be restored when the board has reasonable assurance that the person will comply with this rule.

(2) In any action concerning this rule, the burden of proof shall be upon the person making intrastate communications.

(3) This rule shall be inapplicable to administrative communications made by or to a telephone utility.

**22.4(2) *Filing of intrastate access service tariffs.***

*a.* Tariffs providing for intrastate switched access services shall be filed with the board by a local exchange utility that provides such services. A local exchange utility whose tariff or concurring tariff does not contain automatic reductions to implement the applicable transitional intrastate access service reductions shall file revised transitional intrastate access services rates with the board to become effective on or about July 1 of each year until such terminating rates are removed from the tariff. A competitive local exchange carrier that is required to benchmark its intrastate access service rates to the rates of an incumbent local exchange carrier shall file revised transitional intrastate access rates with the board to become effective on or about August 1 of each year until such terminating rates are removed from the tariff. Unless otherwise provided, the filings are subject to the applicable rules of the board.

*b.* Except in situations involving HVAS, a local exchange utility may concur in the intrastate access tariff filed by another local exchange utility serving the same exchange area. However, a competitive local exchange carrier may not concur in the intrastate access tariff of an incumbent local exchange carrier that qualifies as a rural telephone company pursuant to 47 U.S.C. § 153(44) unless the competitive local exchange carrier is also a rural CLEC pursuant to 47 CFR 61.26(a)(6).

(1) Alternatively, a local exchange utility may voluntarily elect to join another local exchange utility or utilities in forming an association of local exchange utilities. The association may file intrastate access service tariffs.

(2) All elements of the filings under this rule, including access service rate elements, shall be subject to review and approval by the board.

**22.4(3) *Notice of intrastate access service tariffs.***

*a.* Each telephone utility that files new or changed tariffs relating to access charges or access service shall give written notice of the new or changed tariffs to the utility’s interexchange utility access customers, the board, and the consumer advocate. Notice shall be given on or before the date of the filing of the tariff. The notice shall consist of: the file date and proposed effective date of the tariff, a description of the proposed changes, and the tariff section number where the service description is

located. If two or more local exchange utilities concur in a single tariff filing, the local exchange utilities may send a joint written notice to the board, the consumer advocate, and the interexchange utilities.

*b.* The board shall not approve any new or changed tariff described in paragraph 22.4(3) “a” until after the period for resistance.

**22.4(4) Resistance to intrastate access service tariffs.**

*a.* If an interexchange utility affected by an access service filing or the consumer advocate desires to file a resistance to a proposed new or changed access service tariff, it shall file its resistance within 14 days after the filing of the proposed tariff. The interexchange utility shall send a copy of the resistance to all telephone utilities filing or concurring in the proposed tariff.

*b.* After receipt of a timely resistance, the board may:

(1) Deny the resistance if it does not on its face present a material issue of adjudicative fact or the board determines the resistance to be frivolous or otherwise without merit and allow the tariff to go into effect by order or by operation of law; or

(2) Either suspend the tariff or allow the tariff to become effective subject to refund; and initiate informal complaint proceedings; or

(3) Either suspend the tariff or allow the tariff to become effective subject to refund; and initiate contested case proceedings; or

(4) Reject the tariff, stating the grounds for rejection.

*c.* The interexchange utility or the consumer advocate shall have the burden to support its resistance.

*d.* If contested case proceedings are initiated upon resistance filed by an interexchange utility, the interexchange utility shall pay the expenses reasonably attributable to the proceedings unless the interexchange utility is the successful party as determined by the board.

**22.4(5) Access charge rules to prevail.** The provisions of this rule shall be determinative of the procedures relating to intrastate access service tariffs and shall prevail over all inconsistent rules.

**199—22.5(476) Interexchange utility service and access.**

**22.5(1) Interexchange utility service.** An interexchange utility may provide interexchange service by complying with the laws of this state and the rules of this board. Any company or other entity accessing local exchange facilities or services in order to provide interexchange communication services to the public shall be considered to be an interexchange utility and subject to the rules herein, unless otherwise exempted. Such utilities are required to file a registration form, reports, and other items and are subject to service standards as specified in utilities division rules, unless otherwise exempted.

**22.5(2) Interexchange utility intrastate access.** Intrastate access to local exchange services or facilities may be obtained by an interexchange utility by ordering and paying for such intrastate access pursuant to the applicable tariff filed by the exchange utility in question, or as otherwise provided by agreement between the parties.

**199—22.6(476) Alternative operator services.**

**22.6(1) Tariffs.** Alternative operator service companies must provide service pursuant to board-approved tariffs covering both rates and service.

**22.6(2) Blocking.** AOS companies shall not block the completion of calls which would allow the caller to reach a long distance telephone utility different from the AOS company. All AOS company contracts with contracting entities must prohibit call blocking by the contracting entity. The contracting entity shall not violate that contract provision.

**22.6(3) Posting.**

*a.* Contracting entities must post on or in close proximity to all telephones served by an AOS company the following information:

(1) The name and address of the AOS company;

(2) A customer service number for receipt of further service and billing information; and

(3) Dialing directions to the AOS operator for specific rate information.

b. Contracts between AOS companies and contracting entities shall contain provisions for posting the information. The AOS companies also are responsible for the form of the posting and shall make reasonable efforts to ensure implementation, both initially and on an updated basis.

**22.6(4) Oral identification.** All AOS companies shall announce to the end-user customer the name of the provider carrying the call and, before billing begins, shall include a sufficient delay period to permit the caller to terminate the call or advise the operator to transfer the call to the end-user customer's preferred carrier.

**22.6(5) Billing.** All AOS company bills to end-user customers shall comply with the following requirements:

a. All calls, except those billed to commercial credit cards, shall be itemized and identified separately on the bill. All calls will be rated solely from the end-user customer's point of origin to point of termination.

b. All bills, except those for calls billed to commercial credit cards, shall be rendered within 60 days of the provision of the service.

c. All charges for the use of a telephone instrument shall be shown separately for each call, except for calls billed to a commercial credit card.

**22.6(6) Emergency calls.** All AOS companies shall have a board-approved methodology to ensure the routing of all emergency zero-minus (0-) calls in the fastest possible way to the proper local emergency service agency.

**22.6(7) Service to inmates in correctional facilities.** With board approval, AOS companies that provide local or intrastate calling services to inmates housed in correctional facilities may provide service that is not consistent with the requirements in this rule by including a statement of noncompliance in the AOS company's tariffs.

**199—22.7(476) Service territories.** Service territories are defined by the telephone exchange area boundary maps on file with the Iowa utilities board.

**22.7(1) Map availability.** The maps are available for viewing at the board's office during regular business hours, and copies are available at the cost of reproduction.

**22.7(2) Map specifications.** All ILECs shall have on file with the board maps which identify their exchanges and both the internal exchange boundaries where the utility's own exchanges abut and the ultimate boundaries where the utility's exchanges abut the exchanges of other utilities. A CLEC shall either file its own exchange boundary map or adopt the exchange boundary map filed by the ILEC serving that exchange. Maps shall be filed in electronic format as approved by the board.

**199—22.8(476) Registration of telecommunications service providers.** Each telecommunications service provider shall register with the board as part of the filing of an annual report with the board pursuant to 199—Chapter 23. If a telecommunications service provider is not required to file an annual report, that provider shall file an annual registration in compliance with the requirements for filing annual reports. Registration is required even though a telecommunications service provider has a certificate of public convenience and necessity issued prior to July 1, 2018, and the provider retains the rights conferred by that certificate.

**199—22.9(476) Unauthorized changes in telephone service.**

**22.9(1) Definitions.** As used in this rule, unless the context otherwise requires:

"Change in service" means the designation of a new provider of a telecommunications service to a customer, including the initial selection of a service provider, and includes the addition or deletion of a telecommunications service for which a separate charge is made to a customer account.

"Consumer" means a person other than a service provider who uses a telecommunications service.

"Cramming" means the addition or deletion of a product or service for which a separate charge is made to a telecommunications service customer's account without the verified consent of the affected customer. "Cramming" does not include the addition of extended area service to a customer account pursuant to board rules, even if an additional charge is made. "Cramming" does not include



telecommunications services that are initiated or requested by the customer, including dial-around services such as “10-10-XXX,” directory assistance, operator-assisted calls, acceptance of collect calls, and other casual calling by the customer.

“*Customer*” means the person other than a service provider whose name appears on the account and others authorized by that named person to make changes to the account.

“*Executing service provider*” means, with respect to any change in telecommunications service, a service provider who executes an order for a change in service received from another service provider or from its own customer.

“*Jamming*” means the addition of a preferred carrier freeze to a customer’s account without the verified consent of the customer.

“*Letter of agency*” means a written document complying with the requirements of paragraph 22.9(2) “b.”

“*Preferred carrier freeze*” means the limitation of a customer’s preferred carrier choices so as to prevent any change in preferred service provider for one or more services unless the customer gives the service provider from which the freeze was requested the customer’s express consent.

“*Service provider*” means a person providing a telecommunications service, not including commercial mobile radio service.

“*Slamming*” means the designation of a new telecommunications service provider to a customer, including the initial selection of a service provider, without the verified consent of the customer. “Slamming” does not include the designation of a new provider of a telecommunications service to a customer made pursuant to the sale or transfer of another carrier’s customer base, provided that the designation meets the requirements of paragraph 22.9(2) “e.”

“*Soft slam*” means an unauthorized change in service by a service provider that uses the carrier identification code (CIC) of another service provider, typically through the purchase of wholesale services for resale.

“*Submitting service provider*” means a service provider who requests another service provider to execute a change in service.

“*Telecommunications service*” means a local exchange or long distance telephone service other than commercial mobile radio service.

“*Verified consent*” means verification of a customer’s authorization for a change in service.

**22.9(2) Prohibition of unauthorized changes in telecommunications service.** Unauthorized changes in telecommunications service, including but not limited to cramming and slamming, are prohibited. Telecommunications service providers shall comply with Federal Communications Commission requirements regarding verification of customer authentication of a change in service and change in service provider as provided for in 47 CFR 64.1120 and 47 CFR 64.2401.

*a. Verification required.*

(1) No service provider shall submit a preferred carrier change order or other change in service order to another service provider unless and until the change has first been confirmed in accordance with one of the following procedures:

1. The service provider has obtained the customer’s written authorization in a form that meets the requirements of this rule; or

2. The service provider has obtained the customer’s electronic authorization to submit the preferred carrier change order. Such authorization must be placed from the telephone number(s) on which the preferred carrier is to be changed and must confirm the information required in numbered paragraph 22.9(2) “a”(1)“1” above. Service providers electing to confirm sales electronically shall establish one or more toll-free telephone numbers exclusively for that purpose. Calls to the number(s) will connect a customer to a voice response unit or to a similar mechanism that records the required information regarding the preferred carrier change, including automatically recording the originating automatic numbering identification; or

3. An appropriately qualified independent third party has obtained the customer’s oral authorization to submit the preferred carrier change order that confirms and includes appropriate verification data. The independent third party must not be owned, managed, controlled, or directed by

the service provider or the service provider's marketing agent; must not have any financial incentive to confirm preferred carrier change orders for the service provider or the service provider's marketing agent; and must operate in a location physically separate from the service provider or the service provider's marketing agent. The content of the verification must include clear and conspicuous confirmation that the customer has authorized a preferred carrier change; or

4. The local service provider may change the preferred service provider, for customer-originated changes to existing accounts only, through maintenance of sufficient internal records to establish a valid customer request for the change in service. At a minimum, any such internal records must include the date and time of the customer's request and adequate verification of the identification of the person requesting the change in service. The burden will be on the local service provider to show that its internal records are adequate to verify the customer's request for the change in service.

All verifications shall be maintained for at least two years from the date the change in service is implemented, and all complaints regarding a change in preferred service provider must be brought within two years of the date the change in service is implemented. Verification of service freezes shall be maintained for as long as the preferred carrier freeze is in effect.

(2) For other changes in service resulting in additional charges to existing accounts only, a service provider shall establish a valid customer request for the change in service through maintenance of sufficient internal records. At a minimum, any such internal records must include the date and time of the customer's request and adequate verification under the circumstances of the identification of the person requesting the change in service. Any of the three verification methods in numbered paragraphs 22.9(2) "a"(1) "1" to "3" are also acceptable. The burden will be on the telecommunications service provider to show that its internal records are adequate to verify the customer's request for the change in service. Where the additional charge is for one or more specific telephone calls, examples of internal records a carrier may submit include call records showing the origin, date, time, destination, and duration of the calls, and any other data the carrier relies on to show the calls were made or accepted by the customer, along with an explanation of the records and data.

*b. Letter of agency form and content.*

(1) A service provider may use a letter of agency to obtain written authorization or verification of a customer's request to change the customer's preferred service provider selection. A letter of agency that does not conform with this subrule is invalid for purposes of this rule.

(2) The letter of agency shall be a separate document (or an easily separable document) or located on a separate screen or web page and contain only the authorizing language described in subparagraph 22.9(2) "b"(5) having the sole purpose of authorizing a service provider to initiate a preferred service provider change. The letter of agency must be signed and dated by the customer to the telephone line(s) requesting the preferred service provider change. A local exchange carrier may use a written or electronically signed letter of agency to obtain authorization or verification of a customer's request to change service.

(3) The letter of agency shall not be combined on the same document, screen, or web page with inducements of any kind.

(4) Notwithstanding subparagraphs 22.9(2) "b"(2) and (3), the letter of agency may be combined with checks that contain only the required letter of agency language as prescribed in subparagraph 22.9(2) "b"(5) and the necessary information to make the check a negotiable instrument. The letter of agency check shall not contain any promotional language or material. The letter of agency check shall contain, in easily readable, boldface type on the front of the check, a notice that the customer is authorizing a preferred service provider change by signing the check. The letter of agency language shall be placed near the signature line on the back of the check.

(5) At a minimum, the letter of agency must be printed in a readable type of sufficient size to be clearly legible and must contain clear and unambiguous language that confirms:

1. The customer's billing name and address and each telephone number to be covered by the preferred service provider change order;

2. The decision to change the preferred service provider from the current service provider to the soliciting service provider;

3. That the customer designates [insert the name of the submitting service provider] to act as the customer's agent for the preferred service provider change;

4. That the customer understands that only one service provider may be designated as the customer's interstate or interLATA preferred interexchange service provider for any one telephone number. To the extent that a jurisdiction allows the selection of additional preferred service providers (e.g., local exchange, intraLATA/intrastate toll, interLATA/interstate toll, or international interexchange), the letter of agency must contain separate statements regarding those choices, although a separate letter of agency for each choice is not necessary; and

5. That the customer understands that any preferred service provider selection the customer chooses may involve a charge to the customer for changing the customer's preferred service provider.

(6) Any service provider designated in a letter of agency as a preferred service provider must be the service provider directly setting the rates for the customer.

(7) Letters of agency shall not suggest or require that a customer take some action in order to retain the customer's current service provider.

(8) If any portion of a letter of agency is translated into another language, then all portions of the letter of agency must be translated into that language. Every letter of agency must be translated into the same language as any promotional materials, oral descriptions or instructions provided with the letter of agency.

*c. Customer notification.* Every change in service shall be followed by a written notification to the affected customer to inform the customer of the change. Such notice shall be provided within 30 days of the effective date of the change. Such notice may include, but is not limited to, a conspicuous written statement on the customer's bill, a separate mailing to the customer's billing address, or a separate written statement included with the customer's bill. Each such statement shall clearly and conspicuously identify the change in service, any associated charges or fees, the name of the service provider associated with the change, and a toll-free number by which the customer may inquire about or dispute any provision in the statement.

*d. Preferred carrier freezes.*

(1) A preferred carrier freeze (or freeze) prevents a change in a customer's preferred service provider selection unless the customer gives the service provider from whom the freeze was requested express consent. All local exchange service providers who offer preferred carrier freezes must comply with the provisions of this subrule.

(2) All local exchange service providers who offer preferred carrier freezes shall offer freezes on a nondiscriminatory basis to all customers, regardless of the customers' service provider selections.

(3) Preferred carrier freeze procedures, including any solicitation, must clearly distinguish among telecommunications services (e.g., local exchange, intraLATA/intrastate toll, interLATA/interstate toll, and international toll) subject to a preferred carrier freeze. The service provider offering the freeze must obtain separate authorization for each service for which a preferred carrier freeze is requested.

(4) Solicitation and imposition of preferred carrier freezes.

1. All solicitation and other materials provided by a service provider regarding preferred carrier freezes must include:

- An explanation, in clear and neutral language, of what a preferred carrier freeze is and what services may be subject to a freeze;

- A description of the specific procedures necessary to lift a preferred carrier freeze; an explanation that these steps are in addition to the verification requirements in this rule for changing a customer's preferred service provider selections; and an explanation that the customer will be unable to make a change in service provider selection unless the freeze is lifted; and

- An explanation of any charges associated with the preferred carrier freeze.

2. No local exchange carrier shall implement a preferred carrier freeze unless the customer's request to impose a freeze has first been confirmed in accordance with one of the following procedures:

- The local exchange carrier has obtained the customer's written or electronically signed authorization in a form that meets the requirements of this rule; or

- The local exchange carrier has obtained the customer's electronic authorization, placed from the telephone number(s) on which the preferred carrier freeze is to be imposed, to impose a preferred carrier freeze. The electronic authorization shall confirm appropriate verification data. Service providers electing to confirm preferred carrier freeze orders electronically shall establish one or more toll-free telephone numbers exclusively for that purpose. Calls to the number(s) will connect a customer to a voice response unit or to a similar mechanism that records the required information regarding the preferred carrier freeze request, including automatically recording the originating automatic numbering identification; or

- An appropriately qualified independent third party has obtained the customer's oral authorization to submit the preferred carrier freeze and confirmed the appropriate verification data and the information required in this rule. The independent third party must not be owned, managed, or directly controlled by the service provider or the service provider's marketing agent; must not have any financial incentive to confirm preferred carrier freeze requests for the service provider or the service provider's marketing agent; and must operate in a location physically separate from the service provider or the service provider's marketing agent. The content of the verification must include clear and conspicuous confirmation that the customer has authorized a preferred carrier freeze.

3. A local exchange service provider may accept a written and signed authorization to impose a freeze on the customer's preferred service provider selection. Written authorization that does not conform with this subrule is invalid and may not be used to impose a preferred carrier freeze.

- The written authorization shall comply with this rule concerning the form and content for letters of agency.

- At a minimum, the written authorization must be printed with a readable type of sufficient size to be clearly legible and must contain clear and unambiguous language that confirms:

- The customer's billing name and address and the telephone number(s) to be covered by the preferred carrier freeze;

- The decision to place a preferred carrier freeze on the telephone number(s) and particular service(s). To the extent that a jurisdiction allows the imposition of preferred carrier freezes on additional preferred service provider selections (e.g., for local exchange, intraLATA/intrastate toll, interLATA/interstate toll service, and international toll), the authorization must contain separate statements regarding the particular selections to be frozen;

- That the customer understands that the customer will be unable to make a change in service provider selection unless the preferred carrier freeze is lifted; and

- That the customer understands that any preferred carrier freeze may involve a charge to the customer.

(5) All local exchange service providers that offer preferred carrier freezes must, at a minimum, offer customers the following procedures for lifting a preferred carrier freeze:

1. A local exchange service provider administering a preferred carrier freeze must accept a customer's written or electronically signed authorization stating the intention to lift a preferred carrier freeze; and

2. A local exchange service provider administering a preferred carrier freeze must accept a customer's oral authorization stating the intention to lift a preferred carrier freeze and must offer a mechanism that allows a submitting service provider to conduct a three-way conference call with the service provider administering the freeze and the customer in order to lift a freeze. When engaged in oral authorization to lift a preferred carrier freeze, the service provider administering the freeze shall confirm appropriate verification data and the customer's intent to lift the particular freeze.

*e. Procedures in the event of sale or transfer of customer base.* A telecommunications carrier may acquire, through a sale or transfer, either part or all of another telecommunications carrier's customer base without obtaining each customer's authorization if the acquiring carrier complies with the following procedures. A telecommunications carrier may not use these procedures for any fraudulent purpose, including any attempt to avoid liability for violations under this rule.

(1) No later than 30 days before the planned transfer of the affected customers from the selling or transferring carrier to the acquiring carrier, the acquiring carrier shall file with the board a letter

notifying the board of the transfer and providing the names of the parties to the transaction, the types of telecommunications services to be provided to the affected customers, and the date of the transfer of the customer base to the acquiring carrier. In the letter, the acquiring carrier also shall certify compliance with the requirement to provide advance customer notice in accordance with this rule and with the obligations specified in that notice. In addition, the acquiring carrier shall attach a copy of the notice sent to the affected customers.

(2) If, subsequent to the filing of the letter of notification with the board any changes to the required information develop, the acquiring carrier shall file written notification of these changes with the board no more than ten days after the transfer date announced in the prior notification. The board may require the acquiring carrier to send an additional notice to the affected customers regarding such material changes.

(3) Not later than 30 days before the transfer of the affected customers from the selling or transferring carrier to the acquiring carrier, the acquiring carrier shall provide written notice to each affected customer. The acquiring carrier must fulfill the obligations set forth in the written notice. The written notice must inform the customer of the following:

1. The date on which the acquiring carrier will become the customer's new telecommunications service provider;

2. The rates, terms, and conditions of the service(s) to be provided by the acquiring carrier upon the customer's transfer to the acquiring carrier, and the means by which the acquiring carrier will notify the customer of any change(s) to these rates, terms, and conditions;

3. The acquiring carrier will be responsible for any carrier change charges associated with the transfer;

4. The customer's right to select a different preferred carrier for the telecommunications service(s) at issue, if an alternative carrier is available;

5. All customers receiving the notice, even those who have arranged preferred carrier freezes through their local service providers on the service(s) involved in the transfer, will be transferred to the acquiring carrier unless the customers select a different carrier before the transfer date; existing preferred carrier freezes on the service(s) involved in the transfer will be lifted; and the customers must contact their local service providers to arrange a new freeze;

6. Whether the acquiring carrier will be responsible for handling any complaints filed, or otherwise raised, prior to or during the transfer against the selling or transferring carrier; and

7. The toll-free customer service telephone number of the acquiring carrier.

These rules are intended to implement Iowa Code sections 476.1D, 476.2, 476.91, 476.95, 476.95A, 476.95B, 476.100, and 476.103.